

13 July 1953

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Quorum Requirements for Congressional Committees

1. The Supreme Court has passed twice in recent years on the question of whether a congressional committee because of lack of a quorum is a competent tribunal for the purposes of contempt proceedings or subornation proceedings. The following quotation from United States Supreme Court Reports, 93 Law. Ed., October 1948 Term, summarizes the views of the opinions:

"Unless a quorum is present at the time a witness testifies, a committee or subcommittee of the House of Representatives or of the Senate is not a competent tribunal, and it is immaterial that a quorum was present when the committee convened.

"Where a congressional committee, because of lack of a quorum, is not a competent tribunal, testimony before such a committee cannot be considered as perjury; nor can a person be convicted of suborning it.

"A quorum of a congressional committee, so as to render it a competent tribunal before which perjury may be committed, is not lacking merely because only one of the three senators present at the time of the testimony had been among the five originally appointed to the subcommittee.

"In order to sustain the defense of no quorum in a prosecution for perjury before a congressional committee, it is not essential that the point was raised before the committee, but it is enough if the point is raised at the trial." (93 Law. Ed. 1836)

2. The following statements are also pertinent:

a. The Legislative Reorganization Act of 1946, referring to the standing committees, provides:

"No measure or recommendation shall be reported from any such committee unless a majority of the committee were actually present." (60 Stat 812, c 753, Section 133(d))

This provision was the basis for the decision in the case of Christoffel vs. United States, which held that Christoffel was not guilty of perjury in testimony before a committee unless it could be shown that a quorum was present at the time the testimony was given. (338 US 84) The Court stated, among other points, that

"* the power to raise a point of no quorum appears to be limited to members of the committee. We have no doubt that if a member of the committee had raised a point of no quorum and a count had revealed the presence of less than a majority, proceedings would have been suspended until the deficiency should be supplied."

The Christoffel case had to do with a committee of the House of Representatives.

b. An earlier case considering the same point is Meyers vs. United States. This was a case before a Senate Subcommittee charging subornation of perjury by Bennett Meyers. The Court says,

"On October 6, 1947, however, only two senators were present at the hearing. Since they were a minority of the subcommittee, they could not legally function except to adjourn. For that reason, the testimony of Lamarre given on that day cannot be considered as perjury nor can appellant be convicted of suborning it." (171 F. 2d 800, Page 811)

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cc: IG
DD/I